

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:22-cv-00120-MR**

OSCAR PEREZ,)	
)	
Plaintiff,)	
)	
vs.)	
)	
RONNIE HUNEYCUTT, et al.,)	<u>ORDER</u>
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on the Plaintiff's pro se Motion for Default Judgment [Doc. 18] and on his Motion to Withdraw¹ [Doc. 20].

The pro se incarcerated Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 and state law. [Doc. 1]. On January 23, 2023, the Complaint passed initial review against Defendant Ronnie Huneycutt² on several § 1983 claims, and the Court exercised supplemental jurisdiction over the Plaintiff's related state law claims. [Doc. 11]. Defendant Huneycutt waived service of process on March 23, 2023, making his answer due on

¹ Titled "Plaintiff's Reply to Defendant's Opposition to the Plaintiff's Motion for Default Judgment, and Motion to Withdraw his Request for Default Judgment."

² "Warden Huneycutt" in the Complaint. [Doc. 1 at 1]. The service waiver reflects the Defendant's correct name. [Doc. 16]. The Clerk will be instructed to update the Court's record accordingly.

May 22, 2023. [Doc. 16]. Defendant Huneycutt filed his Answer eight days late on May 30, 2023. [Doc. 17]. Also on May 30, 2023,³ the Plaintiff filed the instant “Motion Requesting Default Judgment.” [Doc. 18]. Defendant Huneycutt filed a Response in Opposition, arguing that the Motion violates the Court’s Local Rules, that he has filed an Answer, and that there is a strong preference for disposing of cases on the merits. [Doc. 19]. The Plaintiff then filed a Motion to Withdraw, agreeing with the Defendant and asking to withdraw his request for default judgment. [Doc. 20].

The Plaintiff’s Motion to Withdraw is granted, and the Motion for Default Judgment will be stricken.

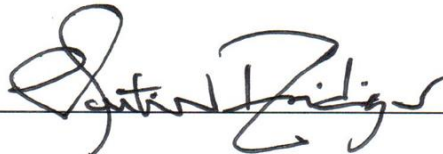
IT IS, THEREFORE, ORDERED that the Plaintiff’s Motion to Withdraw [Doc. 20] is **GRANTED** and the Motion for Default Judgment [Doc. 18] is **STRICKEN**.

IT IS FURTHER ORDERED that the Clerk of Court is instructed to correct the Defendant’s name in the Court’s record by substituting Ronnie Huneycutt for “FNU Huneycutt.”

³ Houston v. Lack, 487 U.S. 266, 276 (1988) (establishing the prisoner mailbox rule); Lewis v. Richmond City Police Dep’t, 947 F.2d 733 (4th Cir. 1991) (applying prisoner mailbox rule to § 1983 case).

IT IS SO ORDERED.

Signed: July 14, 2023

A handwritten signature in black ink, appearing to read "Martin Reidinger", written over a horizontal line.

Martin Reidinger
Chief United States District Judge

